

SPECIAL NOTIFICATION

Attention Industry Members

FROM: STATE SUPERVISOR

RE: TRADE PRACTICE ISSUES

DATE: June 14, 2006

The Missouri Division of Alcohol and Tobacco Control has recently received an influx of complaints regarding consumer advertising specialties (CAS), point of sale advertising materials (POS), product displays, and outside banners. These complaints allege that some wholesalers have failed to abide by CAS, POS, product display and outside banner monetary limitations resulting in retailers unfairly receiving benefits from wholesalers in excess of what is allowed. The purpose of this circular is to remind manufacturers, solicitors, wholesalers, distillers, and retailers that dollar thresholds are in place and that compliance is mandatory.

1. Section 311.070.3(1), RSMo, defines: **“Consumer advertising specialties”** as advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;”
2. Section 311.070.3(3), RSMo, defines: **“Point of sale advertising materials”** as: advertising items designed to be used within a retail business establishment to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic beverage lists or menus;”. **Please note that inside banners are considered POS materials.**
3. Section 311.070.4(2)(a), RSMo, places restrictions on POS and CAS materials: **“The total value of all point of sale advertising materials and consumer advertising specialties given or sold to a retail business shall not exceed five hundred dollars per year, per brand, per retail outlet.** The value of point-of-sale advertising materials and consumer advertising specialties is the actual cost to the distiller, wholesaler, winemaker, or brewer who initially purchased such item. Transportation and installation costs shall be excluded.”

4. Section 311.070.3(4), RSMo, defines: “**Product Display**” as wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products.” “**The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet.** There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded.” (Section 311.070.4(1)(a), RSMo); and
5. Section 311.070.4(16), RSMo, allows distillers, wholesalers, winemakers or brewers to give or sell an **outside sign (this includes banners used outside)** to a retail business if the following requirements are met: (a) The sign shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer; (b) The retail business shall not be compensated, directly or indirectly, for displaying the sign; and (c) **The cost of the sign shall not exceed four hundred dollars.**

In addition, the Division, through random audits of advertising records, has found that adequate records of these transactions are not being maintained by licensees. 11 CSR 70-2.140(3), provides that: “All licensees shall keep all files, books, records, papers, state, county and city licenses, federal tax stamps and accounts and memoranda pertaining to the business conducted by them, on the licensed premises and they, upon request of the supervisor of liquor control or his/her duly authorized agents and auditors, promptly shall allow an inspection and audit to be made by the supervisor or his/her agents, of files, books, records, papers, state, county and city licenses, federal tax stamps, accounts and memoranda and shall permit copies to be made and taken of them.”

It is the responsibility of each manufacturer, solicitor, wholesaler, and brewer to accurately document and make available, upon request, all documentation regarding CAS, POS, Product Displays, and outside signs/banners for a minimum period of two years. In an effort to assist documentation compliance, the Division has attached a form specifying minimum record keeping requirements.

Please contact the Division if you have any questions or concerns regarding this circular.

Peter W. Lobdell
State Supervisor

Attachment



**MO Department of Public Safety -
Division of Alcohol and Tobacco
Control**

POS, CAS, Product Display, & Outside Sign/ Banner Log

Licensee Name:

Address:

Calendar Year:

License #:

Record all outside signs or banners given to or removed from licensee. (\$400 maximum at any one time)

Record all Point of Sale Advertising (POS) Materials and Consumer Advertising Specialties (POS) given to and/or removed from retail premises. (\$500 per brand, per retailer, annually)

Record Date and Description for all items given or removed.

Record all Product Displays placed or removed from licensed premises. (\$300 maximum per brand at any one time)

[illegible]